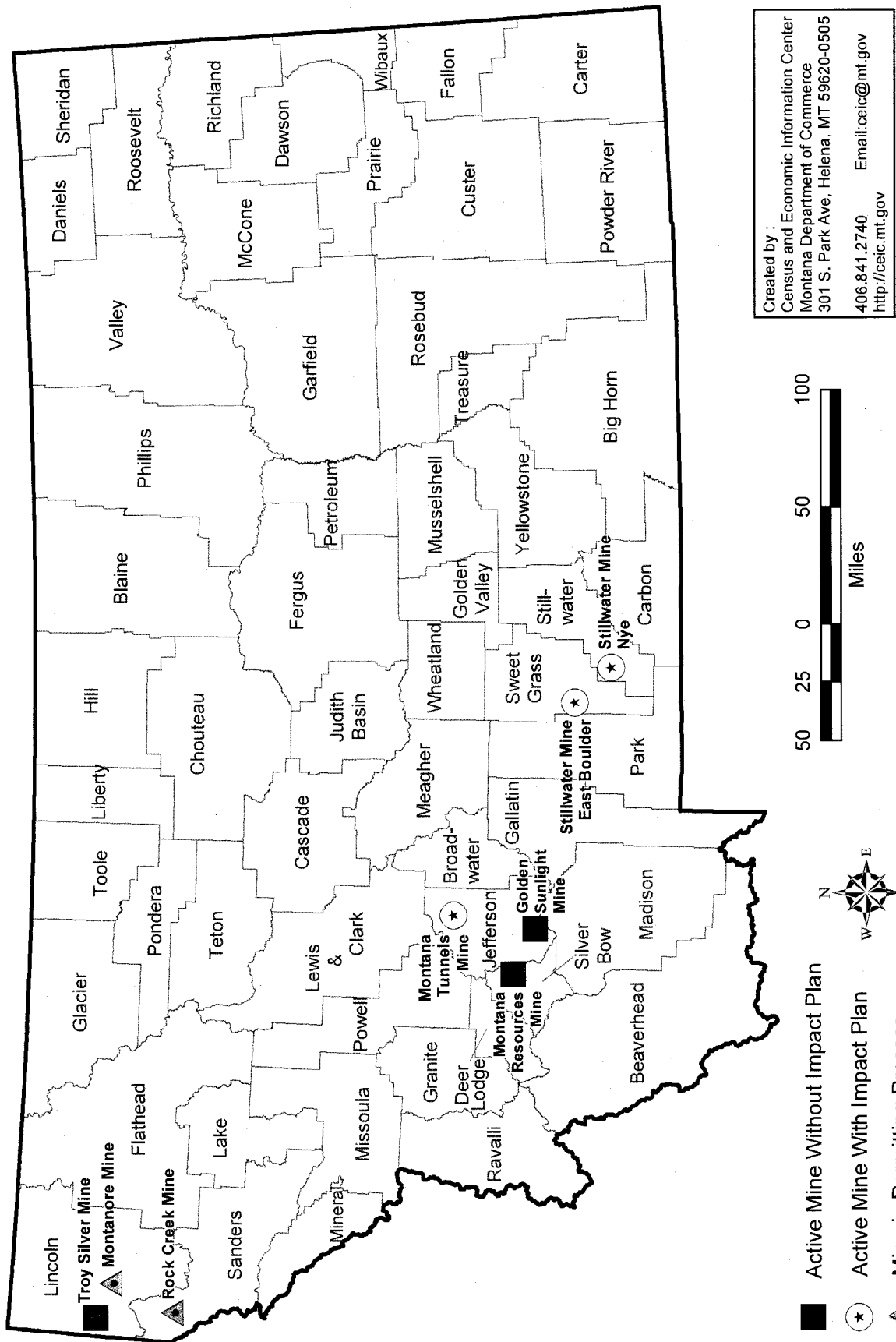


Active Mines With Impact Plans, Active Mines Without Impact Plans, And Proposed Mines



The Property Tax Base Sharing Act

The Property Tax Base Sharing Act is triggered if the approved plan identifies a "jurisdictional revenue disparity," such as may occur if increased costs for local government services will occur in a local government unit which does not include the mine within its taxing jurisdiction.

The Property Tax Base Sharing Act provides for a formula-based allocation of the taxable valuation of the hard-rock mineral development among affected counties, municipalities and school districts. The allocations are based on the place of residence of the hard-rock mineral development employees and their school age children.

The Hard-Rock Mining Impact Board

The five-member Hard-Rock Mining Impact Board is appointed by the Governor in compliance with specific purposes.

Depending upon the issues before the Board, the meetings may be held in various locations throughout the State. All Board meetings are open to the public and citizen participation is encouraged. Public comment on any matter that is within the jurisdiction of the Board will be allowed at all Board meetings. The opportunity for public comment will be reflected on the meeting agenda and incorporated into the official minutes of the meeting. Board meetings are held at facilities that

are fully accessible to persons with disabilities. Any person needing reasonable accommodations should notify the Hard-Rock Board at (406) 841-2782 or TDD at (406) 841-2702 before the scheduled meeting to allow for arrangements.

If you request to be on the mailing list, an agenda will be sent to you approximately two weeks prior to the meeting of the Hard-Rock Mining Impact Board. For more information visit our web site at:

http://comdev.mt.gov/CDD_HR.asp

or contact:

Hard-Rock Mining Impact Board
Department of Commerce
Park Avenue Building
301 South Park Avenue
Helena, MT 59601

Hard Rock Mining Impact Board Members

Mary Ellen Cremer – Big Timber
Kristen Koss – Custer
Marianne Roose – Eureka
Ed Tinsley – Helena
Shain Wolstein - Butte

Administrative Staff:

Ellen Hampa, Administrative Officer
(406) 841-2789
Linda Stangland, Program Assistant
(406) 841-2782

Alternative accessible formats of this document will be provided upon request.

The Hard Rock Mining Impact Act & Property Tax Base Sharing Act



Montana Tunnels Mine near Jefferson City



Stillwater Mine near Livingston

Updated January 2009

HB 194 Testimony

HOUSE BILL NO. 194
INTRODUCED BY REP. SCOTT MENDENHALL

House Appropriations Committee

February 16, 2009

A BILL FOR AN ACT ENTITLED: "AN ACT STATUTORILY APPROPRIATING THE COUNTY PAYMENTS FROM THE HARD-ROCK MINING IMPACT TRUST ACCOUNT; AMENDING SECTIONS 17-7-502, 90-6-304, AND 90-6-331, MCA; AND PROVIDING AN EFFECTIVE DATE."

Mr. Chairman and Members of the Committee:

For the record, my name is Dave Cole. I am the Administrator of the Department of Commerce, Community Development Division. I am here in support HB 194. I would like to thank Representative Mendenhall for sponsoring this legislation.

We understand that the Legislature traditionally opposes the use of statutory appropriations. We hope that we can provide information to demonstrate why a statutory appropriation would be a reasonable solution to an on-going problem in this case.

BACKGROUND:

The Hard Rock Mining Impact Board is administratively attached to the Community Development Division and our staff provides support for the board.

The five-member Montana Hard Rock Mining Impact (HRMI) Board was created by the Legislature in 1981. The Governor appoints the board members. The mission of the board and the purpose of Hard Rock Mining Impact Act (HRMI) (90-6-301, MCA) and Property Tax Base Sharing Act (PTBS) (90-1-401, MCA) are to mitigate the impacts on public services and facilities and fiscal impacts for local governments and school districts from new large-scale hard-rock mineral developments in Montana. The Department of Commerce staff also assists with the distribution of metal mines license tax distributions. (See brochure for additional information on the Board and map showing counties with hard rock mines.)

Under the Hard Rock Mining Impact Act, mine developers and the affected local governments prepare and implement impact plans intended to ensure that local government services and facilities are available when and where they are needed because of new mineral developments, without imposing additional costs on existing local taxpayers. When necessary, the Hard Rock Mining

Impact Board mediates between local governments and hard rock mine developers where potentially adverse public fiscal impacts from large-scale development are identified. Mine developers pay new capital and net operating costs through prepaid property taxes with a subsequent tax credit, grants, or facility impact bonds. When necessary, the board formally adjudicates disputes between affected entities.)

1. Section 15-37-117, MCA, provides that 2.5% of the total collection of metalliferous mines license taxes must be allocated to the state special revenue fund to the credit of a hard-rock mining impact trust account.

2. Section 90-6-304, MCA, provides that money is payable into the hard-rock mining impact trust account from payments made by a mining developer in compliance with the written guarantee from the developer to meet the increased costs of public services and facilities as specified in the impact plan provided for in 90-6-307.

3. Within the Hard Rock Mining Trust Account, there is a reserve of \$100,000, which may be drawn upon in the event that the board must adjudicate a dispute between affected entities. (This occurred during a dispute between Lincoln and Sanders counties over mine taxation.)

(a) Money within the hard-rock mining impact trust account may be used:

(i) for the administrative and operating expenses of the hard rock mining impact board, as provided by 90-6-303(4);

(ii) to establish and maintain the \$100,000 reserve amount; and

(iii) for distribution to the counties of origin, as provided by 90-6-331 and section 90-6-307.

2. Section 90-6-331, MCA, provides that prior to each October 31, all money segregated by county in the hard-rock mining impact trust account following allocation to the \$100,000 hard-rock mining impact trust account established in 90-6-304(2) as of September 30 immediately preceding must be transferred to the county for which the funds have been held.

This provision had a statutory appropriation until 1999 when legislation developed by the Legislative Finance Committee eliminated statutory appropriations from a number of state laws, including 90-6-331. Since then, the lack of a statutory appropriation has frequently created problems for complying with the Legislature's intent that these metal mines license tax funds be returned to the counties where they originated.

After the elimination of the statutory appropriation for these funds, the Department has budgeted for the disbursements of the mine tax revenue House Bill 2. However, due to the volatility of precious metals prices and the resulting increases in metalliferous mines license taxes paid into the Hard Rock Mining Trust Account by mining companies, the amount of funds to be passed through to the counties has fluctuated unpredictably over several years. Revenues have been very difficult to accurately project because of the continually changing market prices for precious metals including copper, gold, platinum, and silver. (See graphs of changing prices for precious metals.)

As a result, it has been very difficult to accurately budget for the amount of funds to be transferred from the Hard Rock Mining Trust Account to the impacted (See attached chart showing Metal Mines License Tax (MMLT) spending authority and the amounts passed through each fiscal year.) For five fiscal years in a row, 2003 through 2007, the amount of metalliferous mines license taxes required to be transferred to the counties of origin exceeded the authorized spending authority provided by the Legislature.

Under the law, the funds for the previous fiscal year must be transmitted to the counties by October 1st each year. As the result of steadily rising minerals prices, the revenue estimates were consistently lower than actual revenues received for five fiscal years in a row. In the past, we accomplished the pass through of metal mines funds by using spending authority from other Commerce programs. This is done by what is called a "program transfer" which transfers budget authority from one program to another. The transfer is justified by a "Budget Change Document (BCD) which is reviewed by the OBPP and the Legislative Fiscal Division. Depending on the amount, it may also be reviewed by the Legislative Finance Committee. That is obviously not a desirable alternative since it can seriously affect the operations of other Commerce programs.

To deal with this, the Department of Commerce requested an increase in spending authority of \$300,000 from the 2007 Legislature, which brought our total spending authority to \$468,861. However, during FY 2008, metals prices did not rise as high as anticipated:

- Budget Authority for FY 2008 was \$468,861; pass through payments of MMLT were \$340,595, based on calendar year 2007 tax receipts.
- Budget Authority for FY 2009 was \$468,861; pass through payments of MMLT were \$402,995, based on calendar year 2008 tax receipts.)

Because metals prices were low during our base budget year, FY 2008, our authorized spending authority was established at only \$340,595. If metals prices rise again when the economy regains strength with the Stimulus programs, as some authorities project they will, we could very likely be without

adequate spending authority again to transmit the available metal mines tax revenues to the counties. For example, the pass through payments in FY 2009 exceeded our new spending authority for the 2010 – 2011 Biennium by \$62,400.

We have provided copies of recent articles, which suggest that copper prices, in particular, are likely to increase because of the Stimulus Bill. If metals prices rise, it will increase the likelihood that we will again exceed our spending authority to pass through the Metal Mines License Tax funds to counties during the next biennium.

For this reason, we believe that House Bill 194 provides the best, long-term solution to the problem caused by the unpredictability of metals prices by restoring the statutory appropriation for the transfer of Metalliferous Mines License Tax monies to the impacted counties where the taxes originated.

Our goal is simply to be able to pass through these monies to the hard rock counties as required by law, without affecting other Commerce programs because we do not have sufficient spending authority. Commerce does not charge any administration fee for this function. All the metal mines license revenues we receive are passed through to the counties.

Montana Department of Commerce

Hard Rock-Mining Impact Board

HISTORICAL ANALYSIS OF METAL MINES LICENSE TAX (MMLT) FUNDS TO COUNTIES

	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	Totals	FY 2010 Budget	FY 2011 Budget
MBARS Budgeted	\$ -	\$ -	\$ 16,916	\$ 16,916	\$ 100,000	\$ 100,000	\$ 468,861	\$ 468,861	\$ 1,171,554	\$ 340,595	\$ 340,595
SABHRS FYE Budgeted	\$ -	\$ 19,000	\$ 39,416	\$ 148,175	\$ 169,000	\$ 269,190	\$ 468,861	\$ 468,861	\$ 1,582,503		
MBARS/ SABHRS FYE Variance	\$ -	\$ (19,000)	\$ (22,500)	\$ (131,259)	\$ (69,000)	\$ (169,190)	\$ -	\$ -	\$ (410,949)		
SABHRS FYE Disbursement	\$ -	\$ 18,247	\$ 39,356	\$ 148,171	\$ 168,861	\$ 269,189	\$ 340,595	\$ 402,995	\$ 1,387,415		
SABHRS Budgeted/ Disbursed Variance	\$ -	\$ 753	\$ 60	\$ 4	\$ 139	\$ 1	\$ 128,266	\$ 65,866	\$ 195,088		

The Budget Authority for FY 2009 was \$468,861

The Metal Mines Tax Revenue for the 1st Quarter of the Fiscal Year 2009 was \$214,633.08.

If the Revenue (metal prices determine the revenue) had continued at the 1st Quarter level the Budget Authority for FY 2009 would have been short by \$212,048.

As of January 1, 2009 MMLT revenues were approximately \$200,000.

Friday, January 9, 2009

Obama stimulus plan helps copper prices

Story link: [Obama stimulus plan helps copper prices](#)

metalmarkets.org.UK

by Elaine Frei

The price of copper rose Friday on the chance that President-elect Barack Obama's plan for rescuing the US economy could help demand for industrial metals.

The plan includes infrastructure improvements that could not only create jobs that could help pull the economy out of recession, but would also require the use of industrial metals in its building projects.

Additionally, China has said that it plans to increase its strategic inventories of industrial metals such as copper.

March copper added 8 cents to \$1.56 per pound in New York, while three-month copper added \$231 to \$3,426 per tonne in London.

Precious metals prices were also up during the session as February gold added 50 cents to \$855 per troy ounce around the close of floor trade in New York, while March silver was up 22 cents to \$11.32 per troy ounce and April platinum was up \$10.90 to \$1,005.50 per troy ounce.

Tuesday, February 3, 2009

Copper, other base metals see gains

Story link: Copper, other base metals see gains

metalmarkets.org.UK

by Elaine Frei

Copper prices were up Tuesday on new data showing home sales and manufacturing up in the United States.

The National Association of Realtors reported that pending existing home sales were up 6.3 percent in December, while the Institute for Supply Management said Monday that US manufacturers saw new orders grow in January.

March copper added 9 cents to \$1.52 per pound in New York, while three-month copper added \$200 to \$3,375 per tonne in London in late afternoon trade there.

The gains came even though copper inventories in London Metal Exchange warehouses added 4,100 tonnes during the session, overshadowing the gain of 325 tonnes recorded Monday.

Other base metals prices were also up on the session as aluminium gained \$20 to \$1,410 per tonne, zinc was up \$63.50 to \$1,177 per tonne, lead was \$65 higher to \$1,170 per tonne, nickel added \$345 to \$11,650 per tonne and tin gained \$450 to \$11,000 per tonne.

Chinese purchases, upbeat data push US copper up

REUTERS

Wed Feb 4, 2009 10:26am EST

NEW YORK, Feb 4 (Reuters) - U.S. copper futures rose early Wednesday, extending the previous session's near 7 percent rally, as reports of increased Chinese buying and optimistic data from China and the U.S. helped underpin the advance.

For detailed report on global copper markets, click on [MET/L]

* Copper for March delivery HGH9 was up 3.10 cents at \$1.5530 a lb by 10:15 a.m. EST (1515 GMT) on the New York Mercantile Exchange's COMEX division.

* Morning range from \$1.5030 to \$1.5580.

* Benchmark March copper contract closed above its 55-day daily moving average (\$1.4668) for the first time since Jan. 26 on Tuesday. Potential double bottom forming with neckline at \$1.60. A breach of that level (on a close basis) would confirm the pattern and open the way for the target just above \$1.81 - Citigroup's CitiFX.

* COMEX estimated volume at 7,285 lots by 9 a.m.

* Copper boosted by reports China has started buying copper from domestic bonded warehouses and overseas markets as a move to gradually triple its state reserves to about 1 million tonnes. [nSHA29168]

* China is the world's largest copper consumer, accounting for nearly 25 percent of global demand.

* Improved manufacturing data from China coupled with a surge in bank lending fed additional investor optimism that the world's third largest economy may soon be on the road to recovery. [ID:nSP241879]

* Less severe contraction in U.S. private sector jobs and in the services sector added to the red metal's positive tone.

* The Institute for Supply Management said its non-manufacturing index came in at 42.9 in January compared with 40.1 in December. [ID:nN04508901]

* Sentiment upbeat from data on Tuesday showing a 6.3 percent rebound in U.S. pending home sales during the month of December. [ID:nN03281919]

* Uncertain demand outlook stemming from rising warehouse stockpiles cloud red metal's upside potential.

* London Metal Exchange warehouse stocks added another 4,650 tonnes on Wednesday, bringing total inventory levels to 499,950 tonnes, their highest since November 2003.

* COMEX copper stocks decreased by 350 short tons to 40,905 short tons as of Tuesday.

* Chile's Escondida, the world's largest copper mine, said on Tuesday that 2008 copper output fell 15.43 percent due to lower ore grades and maintenance work on a grinding mill. [ID:nN03545909]

* South Korea said it would raise its base metals reserves by 37 percent in 2009 ahead of potentially higher demand later in the year when the economy is expected to recover. [ID:nSEO201089]

* Mexico's mining union, which has led an 18-month-long strike at one of the country's largest copper pits, said it negotiated a wage deal with Goldcorp on Tuesday. [ID:nN03321967]

* London Metal Exchange copper for three months delivery <MCU3=LX> rose \$65 to \$3,435 a tonne.

* Range from \$3,332 to \$3,448. (Reporting by Chris Kelly; Editing by Christian Wiessner)

STATUTORY APPROPRIATION OF METALLIFEROUS MINE LICENSE TAX

It is the intent of the Montana Association of Counties to support legislation that will provide statutory appropriation for pass-through of metalliferous license taxes to counties of origin.

WHEREAS, according to 90-6-331, MCA, prior to each October 31, all money segregated by county in the hard-rock mining impact trust account following allocation to the hard-rock mining impact trust account established in 90-6-304(2) as of September immediately preceding must be transferred by the Department [of Commerce] to the county for which the funds have been held in deposit; and

WHEREAS, in recent years the prices of precious metals and resultant tax revenues have been erratic and also reflect a general trend of increasing value due in part to demand in China; and

WHEREAS, such volatility and growth has made it extremely difficult for the Montana Department of Commerce to systematically and accurately budget for the amount of funds to be transferred from the Hard Rock Mining Trust Account for the impacted counties; and

WHEREAS, the amount of metalliferous mines licenses taxes required to be transferred to the counties of origin has exceeded the authorized biennium spending authority provided by the Legislature; and

WHEREAS, the unanticipated growth and volatility, must be resolved in order to allow the Department to legally appropriate, using a more systematic and accurate process, all amounts owed to the counties of origin in order to allay fiscal harm to said counties; and,

WHEREAS, prior to 1999 this was a statutory appropriation; and

WHEREAS, the Department's continuing insufficient budget authority would be resolved by amending Sections 17-7-502 and 90-6-331, MCA, to provide a statutory appropriation for distributing to the counties of origin, mineral revenues, in excess of the sum of authorized operating expenses of the hard-rock mining impact board and the \$100,000 reserve amount in the hard-rock mining impact trust account.

NOW, THEREFORE, BE IT RESOLVED that the Montana Association of Counties promulgate or support legislation that will allow the Department to systematically and completely transfer to the counties of origin the full mine tax revenues due these counties.

BE IT FURTHER RESOLVED, that MACo shall seek to restore the language that was removed in 1999: "The transfer of funds required by this section is a statutory appropriation pursuant to 17-7-502"

SPONSOR: Districts 6 and 7

RECOMMENDATION: Do Pass

PRIORITY: Medium

REFERRED TO: Resolutions Committee
Budget & Finance Committee
Hard Rock Counties

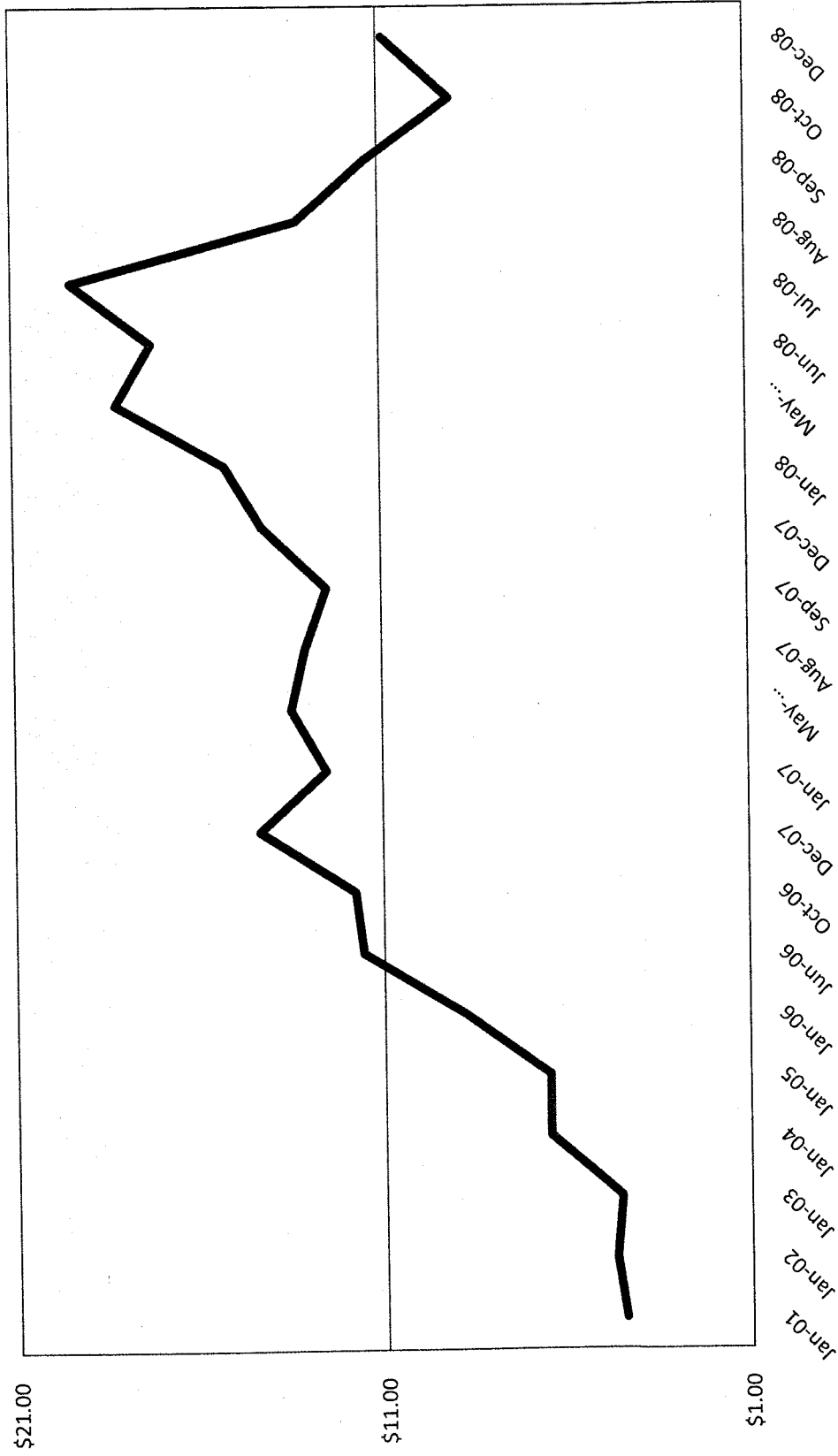
ADOPTED: Annual Conference, Hamilton, MT September 24, 2008

Transfers to Counties from Hard- Rock Mining Impact Trust Account

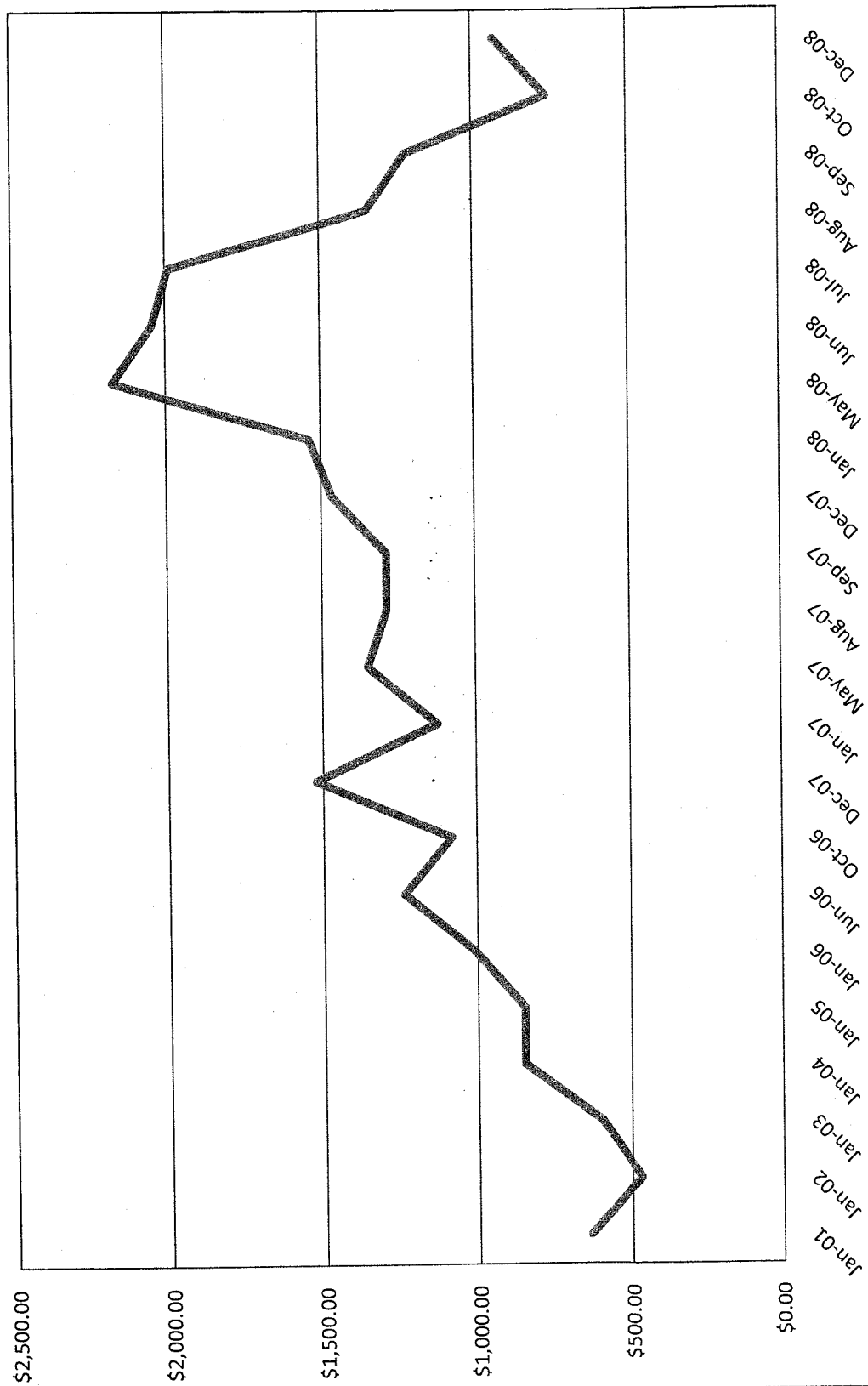
County	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	TOTALS
Jefferson	\$ 6,719.13	\$40,509.44	\$12,040.85	\$ 18,945.07	\$25,531.94	\$72,420.42	\$176,166.85
Lincoln				\$ 8,125.62	\$14,189.82	\$15,365.80	\$37,681.24
Madison			\$ 43.66				\$43.66
Meagher	\$ 13.45	\$ 20.18			\$108.86	\$89.80	\$232.29
Silver Bow		\$ 510.69	\$70,123.60	\$144,565.40	\$175,434.53	\$198,309.29	\$588,953.51
Stillwater	\$26,647.43	\$76,580.92	\$36,595.14	\$ 45,386.20	\$57,960.78	\$51,551.86	\$294,722.33
Sweet Grass	\$ 5,976.75	\$30,549.97	\$50,057.73	\$ 52,166.24	71,347.15	\$65,257.54	\$271,357.63
TOTALS	\$39,356.76	\$148,171.20	\$168,860.98	\$269,188.53	\$344,573.08	\$402,994.71	\$625,577.47

Metal Prices 2001 - 2008

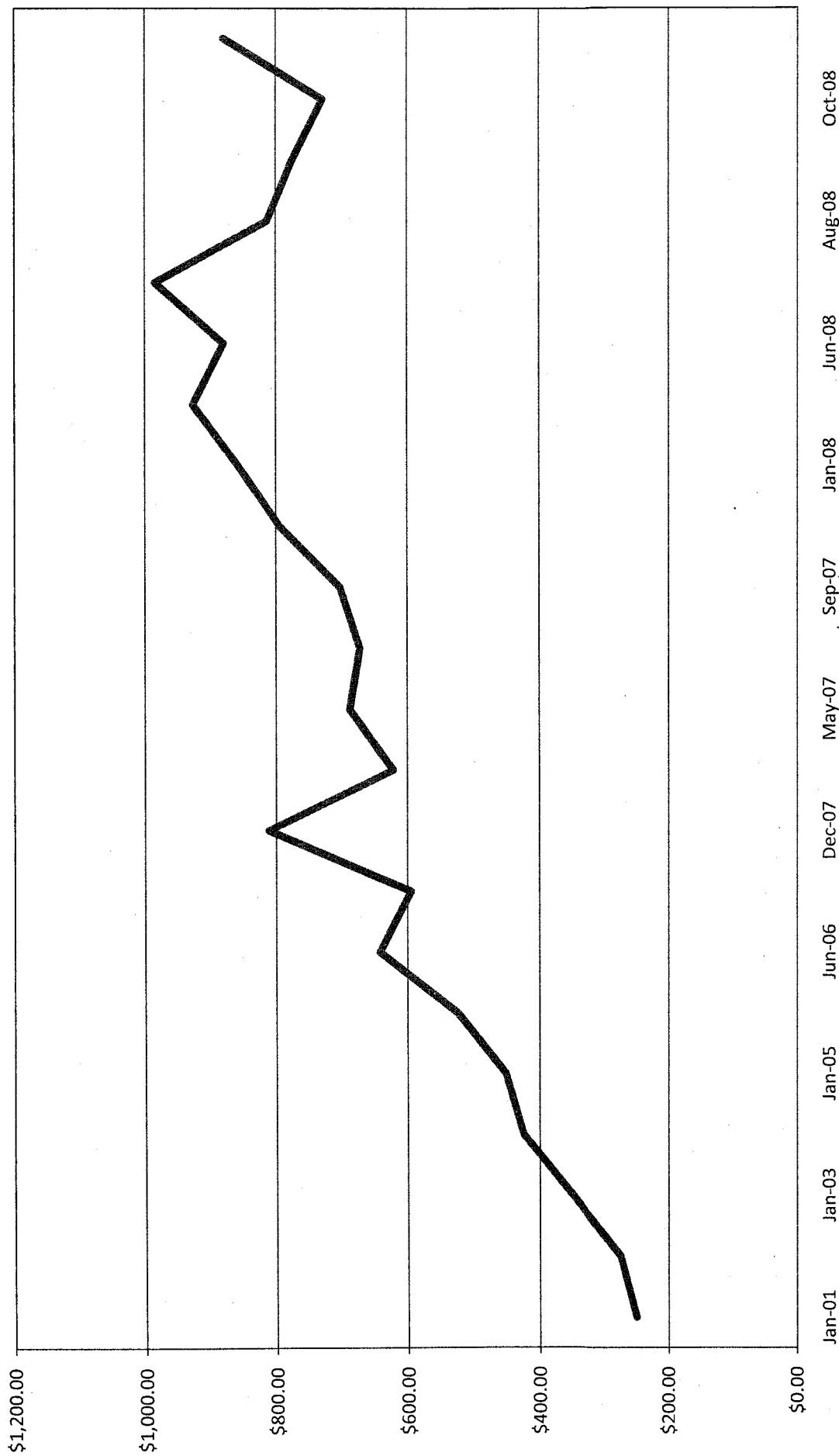
Silver per ounce



Platinum per ounce



Gold price per ounce



Metal Prices 2001 - 2008

